

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAMES MATTHEW WHORTON,

Plaintiff,

Case No. 21-11046

v.

HON. DENISE PAGE HOOD

JODI DEANGELO,

Defendant.

/

**ORDER ACCEPTING AND ADOPTING THE OCTOBER 6, 2021 AND
JANUARY 22, 2022 REPORTS AND RECOMMENDATIONS**

This matter is before the Court on Magistrate Judge Curtis Ivy, Jr.'s Report and Recommendation regarding Plaintiff James Matthew Whorton's Requests for Restraining Order filed October 6, 2021 (ECF No. 20) and Report and Recommendation on Defendant Jodi Deangelo's Motion for Partial Summary Judgment filed January 13, 2022 (ECF No. 28). To date, no Objections have been filed by Plaintiff to either Report and Recommendation, and the time to file such has passed.

The standard of review by the district court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a *de novo* determination of those portions of the report or the specified proposed findings or recommendations to which an objection is made." 28 U.S.C. § 636(B)(1)(c). The

Court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate.” *Id.* In order to preserve the right to appeal the Magistrate Judge’s recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Servs.*, 932 F2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

After review of the October 6, 2021 Report and Recommendation, the Court concludes that the Magistrate Judge’s conclusion is correct. The Court agrees with the Magistrate Judge that Plaintiff failed to show he is entitled to preliminary injunctive relief.

As to the January 13, 2022 Report and Recommendation, the Court agrees with the Magistrate Judge that Plaintiff’s Claims 2 (Warden DeAngelo took away Plaintiff’s suicide blanket on 9-9-19) and 6 (Whorton was forced to remain in restraints under 11-26-19 treatment plan) (See ECF No. 16, PageID.101-.102) must be dismissed for failure to exhaust these claims. Defendant has properly supported the motion. Plaintiff failed to respond to the motion and did not file Objections to the Report and Recommendation, even though Plaintiff was given additional time to file

Objections. There is no genuine issue of material fact that Plaintiff failed to exhaust Claims 2 and 6.

Accordingly,

IT IS ORDERED that Magistrate Judge Curtis Ivy, Jr.'s October 6, 2021 Report and Recommendation on Plaintiff's Requests for Retraining Order (**ECF No. 20**) is **ACCEPTED AND ADOPTED** as this Court's findings of fact and conclusions of law. Plaintiff's Requests/Motions for Restraining Order (**ECF Nos. 8, 11, 18**) are **DENIED**.

IT IS FURTHER ORDERED that Magistrate Judge Curtis Iv, Jr.'s January 13, 2022 Report and Recommendation on Defendant's Motion for Partial Summary Judgment (**ECF No. 28**) is **ACCEPTED AND ADOPTED** as this Court's findings of fact and conclusions of law. Defendant's Motion for Partial Summary Judgment (**ECF No. 16**) is **GRANTED**. Plaintiff's Claims 2 and 6 are **DISMISSED**.

IT IS FURTHER ORDERED that the Magistrate Judge continue with this action pursuant to the Court's Order Referring Pretrial Matters (ECF No. 10).

s/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: March 30, 2022